



STATE OF CALIFORNIA
FRANCHISE TAX BOARD - Legal Branch
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August 12, 1998

FTB NOTICE 98-12

**SUBJECT: DRAFT LEGISLATION SYMPOSIUM – TAXATION OF TRUSTS
RESULTING FROM THE TREND TOWARD NATIONWIDE TRUST
ADMINISTRATION**

Currently, the Revenue and Taxation Code imposes tax on trusts pursuant to a two-tier system based upon the residence of the trust's fiduciaries and the trust's beneficiaries. The residence of a corporate fiduciary is the state in which such fiduciary transacts the major portion of its administration of the trust. An individual beneficiary is considered only if noncontingent.

There is uncertainty regarding what factors, and their relative weights, should be considered in determining where trusts are administered. This uncertainty is compounded by the changing nature of corporate trust administration from local (one state only) to interstate or national. In addition, there is a continuing problem in determining whether an individual beneficiary is to be considered contingent or noncontingent (vested).

Staff of the Franchise Tax Board has considered these problems in detail and developed a legislative proposal to address these issues. The goals of the proposal are the following:

- a. Maintain revenue neutrality.
- b. Ease administration.
- c. Bring clarity and certainty to the law.
- d. Preserve location neutrality of trust administration.

The major focus of the staff proposal is to remove fiduciaries from the equation by limiting California's taxation of trust income to the portion of income accumulated for the benefit of California beneficiaries (whether contingent or noncontingent).

The Franchise Tax Board directed staff to hold a Symposium to discuss this proposal. The Symposium will be held on Wednesday, September 2, 1998, at 10:00 a.m. in Room 1040, Franchise Tax Board, 9645 Butterfield Way, Sacramento, CA 95827. Visitor parking is available. You are invited to submit written comments on the Proposal. For copies of the discussion draft of the proposed legislation, or for further information regarding this notice, contact Beverly

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Moore at the Franchise Tax Board Legal Branch, P.O. Box 1720, Sacramento, CA 95841-1720, (916) 845-3354. The proposal is also available on the Internet at website www.ftb.ca.gov/legal/.

Written comments should be also addressed to Beverly Moore at the address given above or fax number (916) 845-3648 and should be submitted in advance of the September 2, 1998 Symposium.